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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF:

TORTURE AND DETENTION

INDIGENOUS ISSUES

Written statement submitted by the International Indian Treaty Council, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[28 January 1999]

GE.99-11220 (E)

1. The massive violation of the human rights and fundamental freedoms of indigenous peoples as peoples are grievously reflected in the impunity with which Governments violate indigenous persons' individual human rights. This truth is well reflected in the agenda sub-item entitled "Torture and detention".

2. Too many times is the arbitrary detention of indigenous defenders of indigenous human rights treated as a common crime, as though divorced from the actions of the State. For example, in September 1998, Chief Adrian Esquino Lisco, the spiritual leader of ANIS, the National Indigenous Association of El Salvador, was arrested by men in plain clothes, taken out of the jurisdiction and held and charged in another Department with the misuse of ANIS funds and resources. The local police and local courts, under whose jurisdiction these charges fell, were not consulted.

3. The charges were based upon the State's decision to award the juridical recognition of ANIS to others more in sympathy with the Government. But because of urgent appeals from all corners of the globe Chief Lisco was released, and later the charges against him were completely dismissed. But the juridical recognition of Chief Lisco as the legitimate leader of ANIS remains in the courts of El Salvador. Thus, the State's dispute with ANIS was and continues to be over the right of indigenous peoples to their traditional lands.

4. On 3 January 1999, Victor Manuel Díaz, a 19-year-old Salvadoran Nahuat street merchant, was kidnapped. His captors repeatedly telephoned his family asking for ransom, threatening him with violent death. Mr. Díaz is an active supporter of Chief Lisco, and his family has long-standing ties and loyalties to ANIS.

5. It is doubtful that the humble family of a street merchant can raise any ransom. His kidnapping can only be attributed to his and his family's activism on behalf of ANIS and their large and vocal protest against Chief Lisco's arbitrary detention.

6. There is no doubt that the victims of arbitrary detentions are not only the unfortunate individuals that are taken, but include the families, who many times are forced into desperate poverty as a result of the loss of the earnings of the victim and who live in desperate fear for their loved one, as well as other members of the family. Chief Adrian Lisco has related to us the anguish of sleepless nights, the torture of concern not for himself but for the safety and well-being of his children and their families.

7. The International Indian Treaty Council (IITC) also brings to the attention of the Commission on Human Rights the situation of the Chinanteco peoples, now of Veracruz, Mexico, relocated from their traditional lands and territories in Oaxaca, Mexico, and the imprisonment of their leader, Juan Zamora González, and his brother Marcos Zamora González.

8. In 1972, the Mexican Federal Government, under the direction of President Luis Echeverria Alvarez, ordered the construction of the Cerro del Oro dam in San Lucas Ojitlan, Oaxaca. The proposed dam would control the

Papaloapan river, inundating the region of San Luis Ojitlan, forcing the relocation of 5,000 indigenous Chinanteco families.

9. The Mexican Government has failed for 27 years to comply with its promises, in spite of repeated requests to negotiate and finally resolve the Chinanteco forced relocation. In response, the indigenous Chinantecos and Zoques of Uxpanapa Valley founded the Uxpanapa Indigenous Council (CIUX) on 28 October 1994. As an autonomous grass-roots indigenous organization, CIUX's mission was to further Mexican federal and state government compliance with the presidential decrees concerning the Chinanteco relocation and compensation. At CIUX's first election, 1,572 delegates from 72 ejidos unanimously elected Juan Zamora González as CIUX's President.

10. Instead of addressing the long-standing unfulfilled promises, the Government has declared that the land on which the Benito Juárez Poblado No. 1 Chinantecos now reside as a result of the 1972 relocation, now belonged to the Carolina Anaya I ejido instead. The Government has ordered the removal of the Chinantecos from Poblado No. 1 despite the presidential decree granting that land to the Chinantecos as part of their 1972 relocation. To add insult to injury, Juan Zamora González and his brother were arrested on 3 May 1997. Marcos Zamora's only crime, apparently, is that he is related to Juan.

11. On 2 December 1997, the IITC submitted a communication to the Working Group on Arbitrary Detention concerning Juan and Marcos Zamora González. On 8 April 1998, the IITC again communicated with the Working Group, supplementing our initial communication with additional documentation. We also requested information on the status of our initial communication. We evidenced great concern for the failing health of Juan Zamora, as well as concern for both these prisoners of conscience due to the long period of their arbitrary detention.

12. These communications were presented on behalf of the Congreso Nacional Indígena (CNI), a congress of indigenous communities and organizations, including the indigenous community of Uxpanapa, Veracruz, Mexico; the Consejo Indígena de Uxpanapa, an indigenous organization of the same place, as well as the son of Juan Zamora González, who himself is being sought by the Mexican authorities.

13. Juan Zamora is still detained arbitrarily. He is being subjected to four different criminal processes in four different jurisdictions: two different federal and two state (Veracruz and Oaxaca). He is charged with false imprisonment and injury to three Veracruz state officials, as well as the federal crimes of sabotage, harm towards the nation, and attacks against communications lines.

14. In a recent letter to the IITC, also communicated to the Working Group, Mr. Zamora related the pain of his continued unjustified and arbitrary detention, and the monetary costs of defending the charges, including the presentation of evidence and witnesses and four different attorneys in four different jurisdictions. His defence has beer such an enormous expense that he can no longer feed himself in prison, nor provide for his family.

15. The Working Group has many times made the point that in arbitrary detentions, the families of victims are themselves victimized. Mr. Zamora and his brother have been held in prison, denied bail, and made to answer these charges since 3 May 1997. They have been detained, without any resolution of their imprisonment by local processes, for almost two years!

16. In his letter Mr. Zamora also describes the conditions of his imprisonment, and the food provided to prisoners, as unsanitary and vile.

17. The Working Group has pointed out on many occasions that local processes themselves, when they fail to resolve an imprisonment within a reasonable period of time, indicate an arbitrary detention. The very nature of the charges against Juan Zamora González themselves demonstrate the arbitrariness of the detention.

18. It has only been a few months since the fiftieth anniversary of the Universal Declaration of Human Rights. Throughout the world people gathered to celebrate the noble aspirations of the international community. No doubt the work of the United Nations has raised the consciousness of humanity in that violations of human rights are no longer considered legitimate exercises of a State's power. Lamentably, the task of ensuring that States curb impunity and their excesses remains as profoundly needed as it was in 1948.

19. With regard to the kidnapping of Victor Manuel Díaz, we call upon the Salvadoran authorities to fully investigate his case, to secure his speedy and safe release, and to punish the perpetrators to the full extent of the law.

20. In the case of Mexico, the IITC relates to the Commission its great concern not only for Juan and Marcos Zamora González, but for the state of human rights and fundamental freedoms in Mexico.

21. Although we understand that because of international pressures, including concerns raised by the Secretary-General and the High Commissioner for Human Rights, the International Committee of the Red Cross has been invited to attend to the needs of the thousands of internally displaced indigenous peoples of Chiapas, other international human rights defenders and non-governmental organizations are denied entry and are being deported. Human rights and fundamental freedoms are not merely an internal concern but an international concern, as evidenced by the International Bill of Human Rights and the work of the Commission.

22. We call upon the Working Group on Arbitrary Detention to fulfil its mandate with regard to the arbitrary detentions of Juan and Marcos Zamora González.

23. Because of our great concern for the indigenous peoples of Mexico, and Chiapas in particular, we also call upon the Commission to seriously consider the appointment of a special rapporteur for Mexico.